IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 3100 of 2001

Between:

Dr. D. Usha Rani, W/o. Professor M.V. Sudhakar Reddy, Occ: Service, R/o. Tirupathi, Chittoor District.

... PETITIONER

AND

Sri Venkateswara Universtiy, rep. By its Registrar, Tirupathi, Chittoor District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, more in the nature of Mandamus, order or direction declaring the Resolution No.B2 dated 12.01.2001 of the respondent as arbitrary, illegal, discriminatory and therefore violative of the fundamental rights guaranteed to her under Articles 14 and 16 of the Constitution of India and issue a consequential direction to the respondent to implement G.O.R.T.No.702 HE (UE.I-I) Department dated 28.09.2000

Counsel for the Petitioner: MR.C.V.MOHAN REDDY

Counsel for the Respondent: MR.SREERAMULU NAIDU

The Court made the following order:

ORDER:

Petitioner seeks a direction for implementation of orders of the Government in G.O.Rt.No.702 Higher Education (UE.I-I) dated 28.09.2000 and to declare the respondent's Resolution No.B2 dated 12.01.2001 as arbitrary, discriminatory and violative of the fundamental rights guaranteed to her under Articles 14 and 16 of the Constitution of India and contrary to the aforesaid G.O.

Petitioner did her M.Phil in Economics in 1979 and Research leading to Doctorate in Economics in 1983 from the respondent university. She was appointed by the University Grants Commission (for short 'the UGC') as Research Scientist attached to the Department of Population Studies in the year 1984. The post of Research Scientist is equivalent to the post of Lecturer. She was selected and appointed as Director, Centre for Extension Studies, in the year 1990 in the pay scale of Reader.

It is stated that she was selected as a Senior Research Scientist by the UGC, which post is equivalent to that of the Reader, however, the petitioner had chosen to join as Director, Centre for Extension Studies in the year 1990. Thus, the petitioner

is a regular and permanent employee of the respondent-University with effect from 29.03.1990, working in the designated post of Director, placed in the Readers pay scale.

It is submitted that UGC issued guidelines in the year 1985 for rationalizing the pay scales for the staff working in Extension Department of various Universities in the country. By the said guidelines UGC has requested all the Universities to pay the scale of Professor to Directors, Extension Studies and that of Reader scale to the Assistant Directors.

It is stated that following the said advise, the respondent-University also implemented the guidelines insofar as Assistant Directors working in the Adult Education Department of the University, which is an Extension Oriented Department, from 1991-1992 onwards but the same benefit was not given to the petitioner, who is working as Director. The petitioner as Director, coordinates and implements the extension activities of some of the Departments of the respondent-University dealing with extension work of the University viz., Adult Education, Population Studies, Home Science and Education. Therefore, the petitioner made a representation to fix her pay scale in the cadre of the Professor from the date of her joining. The executive council of the respondent-university at its meeting held on 14.07.1997 examined the representation and having found merit in the said representation resolved to fix Professor pay scale to the petitioner. Accordingly, the Vice-Chancellor of the university addressed a letter dated 08.10.1997 to the Chairman, Andhra Pradesh State Council of Higher Education, recommending the case of the petitioner, who is working as Director, Centre for Extension Studies, to place her in the pay scale equivalent to that of Professor.

It is further stated that the additional expenditure
incurred by the university in extending Professor scale to the petitioner is only marginal per annum and thus, requested the Andhra Pradesh State Council of Higher Education to recommend to the State Government for adoption of the pay scales of Professors to the post of Director, Centre for Extension Studies with retrospective effect.

The Secretary of Andhra Pradesh State Council of Higher Education vide his letter dated 13.07.1998 considered the request of the Vice-Chancellor of the Universtiy and recommended the State Government for adoption of Professor pay scale to the post of the petitioner. Pursuant to the said letter of the Vice-Chancellor dated 08.10.1997 and the recommendations of the Secretary of Andhra Pradesh State Council of Higher Education, Government issued orders in G.O.Rt.No.702 Higher Education (UE.I-I) Department dated 28.09.2000 conveying its approval for adoption of the Professor scale of pay to the post held by the petitioner, who is working as Director, Centre for Extension Studies.

The said order of the Government reads as:

> "In the circumstances reported by the Secretary, Andhra Pradesh State Council of Higher Education, Hyderabad in his letter second read above, after careful examination, Government hereby convey the approval for extension of Professor scale of pay Rs.4500-7300 in the pre-revised pay scales of University Grants Commission, 1996 with effect from 29th March, 1990 and the corresponding scale in the Revised Pay Scales of University Grants Commission, 1996 with effect from 01.01.1996 to the post of Director, Centre for Extension Studies, Sri Venkateswara University and to the incumbent (i.e., Dr. D. Usha Rani) in the post subject to the conditions stipulated by the University Grants Commission in their letter, dated 30.03.1989 and the expenditure has to be met within the Block Grant only and no additional funds will be provided."

In fact, before conveying approval of Professors scale to the petitioner by the aforesaid order the Government sought for certain clarifications vide its letter dated 22.02.2000 for which the respondent-University furnished the information as required by the Government vide its letter dated 26.05.2000. In the said letter it is stated that UGC has sanctioned the post of Director/Extension Studies and funded the post upto a period of five years and the State Government has already taken over the liability to meet the expenditure thereon from Block Grant Account. At present the expenditure on the post is being incurred from Block Grants from VIII Plan Period on wards and the increment in the post is paid in Reader Scale of pay though designated as Director. Thus, there is no dispute as regards the grant of funds to the post of the petitioner as Director and the said post is continued on permanent basis and the responsibility of meeting the liability of expenditure has been taken by the Government. The only question that arises is whether the

petitioner is entitled for adoption of Professors scale or not, to the post held by her. The University itself has considered the representation of the petitioner in detail and in fact, the University with the approval of the State Government already adopted Professors scale to the post of Directors in other department of Adult Education of the University, who are also working in the Extension Departments.

It is further submitted that the petitioner though designated as Director, is placed in the pay scale of Reader, which post carries wider responsibilities and is equivalent to the cadre of Professor. She is placed in the pay scale of Reader, which is equivalent to the scale of Assistant Director in the Departments of Adult and Continuing Education of the same University. Therefore, the pay scale given to the petitioner equivalent to that of Assistant Director is unreasonable and as the petitioner fulfills all the required qualifications for the post of the Professor she is entitled for adoption of Professors scale. The said recommendations of the Vice-Chancellor/the respondent-University have been favourably considered by the Andhra Pradesh State Council of higher Education and accordingly the Government issued the aforesaid orders.

It is submitted that all appointments, promotions and increments in the respective pay scales have to be approved by the Government, as the Government is the funding authority for the respective University employees. The request of the University was considered and the Government conveyed its approval for adoption of Professors scale to the petitioner by the aforesaid G.O. Instead of implementing the said orders, the respondent-University passed a resolution dated 12.01.2001 at Sl.No.B-2 stating that the Finance Committee has gone through the circumstances under which the petitioner was appointed as Director and it is quite desirable not to implement the G.O.Rt.No.702, as it would cause financial and other service difficulties.

The respondent-University filed a counter stating that the Government issued the aforesaid order in G.O.Rt.No.702, dated 28.09.2000 conveying its approval for extension of Professor scale to the post of the petitioner with effect from 29.03.1990 and the pre-revised scales of UGC with effect from 01.01.1996 is 16,200-22,400

meeting the expenditure within the Block Grant Account only, but the Government have not provided any additional funds while issuing the said G.O. It is further stated that the additional financial commitment involved in extending Professor scale to the petitioner in the Revised scale of UGC 1986 as per the G.O. would be Rs.2,76,000/- for the period from 29.03.1990 to 31.12.2000. Therefore, in view of the additional financial burden, the University resolved not to implement the order of the Government.

It is further submitted that the Government conveyed its approval of the proposal of the respondent-University to extend the Professors scale to the petitioner without allotting the Block Grant and therefore, it is not possible to implement the said G.O.

The Block Grant is sanctioned by the Government every year to the University keeping in view the total expenditure incurred by the University for its employees. It is the case of the University itself that there would not be any affect in meeting the additional expenditure by extending Professor scale to the petitioner from within the Block Grant as clarified by its letter dated 26.05.2000. In fact, the University itself rationalized the posts of the Assistant Directors and Directors, working in the Extension Department and extended the pay scales of Readers to the Assistant Directors. The University itself undertook to meet the expenditure from within the Block Grant and accordingly recommended the case of the petitioner, which was accepted by the Andhra Pradesh State Council of Higher Education and the Government conveyed its approval for extension of Professor scale to the petitioner. Therefore, the action of the respondent-university in refusing to implement the said G.O. is without any justification and arbitrary.

Learned counsel for the petitioner submits that, in fact, the petitioner is prepared to forego the arrears to be paid to her in the Professor scale from 23.03.1990 to the date of the G.O. i.e., 28.09.2000.

Having regard to the facts and circumstances of the case, the action of the respondent in rejecting to implement the said order vide its resolution No.B-2 dated

12.01.2000 is set aside and the respondent is directed to implement the order of the Government with prospective effect from the date of the said order i.e., 28.09.2000 in G.O.Rt.No.702.

Accordingly, the writ petition is disposed of. No order as to costs.

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V. ESWARAIAH, J

September 23, 2004

Dsk

To

1. Registrar, Sri Venkateswara Universtiy, Tirupathi, Chittoor District.

2. Two CD Copies.